

AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-MJ-575

JOSEPH MCGRAIN

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between in or about at least as early as April 2019 and March 2020, in the Western District of New York, the defendant violated 18 U.S.C. § 2422(b), an offense described as follows:

the defendant knowingly, using a facility or means of interstate or foreign commerce, attempted to persuade, induce, entice or coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

This criminal complaint is based on these facts:

X Continued on the attached sheet.

Please see attached affidavit



Complainant's signature

FBI Special Agent Barry Couch
Printed name and title

Sworn to before me and signed in my presence.

Date: April 10, 2020



Judge's signature

City and State: Rochester, New York

Hon. Mark W. Pedersen, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

I, Barry W. Couch, having been first duly sworn, do hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed for approximately eleven years. I currently investigate crimes committed against children as well as other criminal offenses against the United States.

2. This affidavit is submitted for the limited purpose of establishing probable cause to believe that JOSEPH MCGRain, born XX/XX/1971:

- a. Did knowingly persuade, induce, or entice an individual who had not attained the age of 18 years, using a means of interstate commerce, to engage in sexual activity for which any person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2422(b);

3. The information contained in this affidavit is based upon my personal knowledge, observation, training and experience, as well as conversations with other law enforcement officers and witnesses, and the review of documents and records created in connection with this case. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that JOSEPH MCGRain (Date of Birth XX/XX/1971) did knowingly violate Title 18, United States Code, Section 2422(b).

4. On March 27, 2020, the Minor Victim (MV), who is sixteen years old, born

XX/XX/2003, disclosed to the Greece, New York, Police Department that MV had been having sexual intercourse with JOSEPH MCGRAIN for approximately one and ½ years, and the last time MV and MCGRAIN had sexual intercourse was the prior day on March 26, 2020, at a certain residence in the Western District of New York. It should be noted that MCGRAIN is well known by MV and MV's family.

5. On April 1, 2020, Greece Police were able to observe Facebook chat conversations between MCGRAIN and MV on MV's cell phone. On April 1, 2019, MCGRAIN stated to MV, "I miss our nights". On February 23, 2020, MCGRAIN stated to MV, "fuck you bitch you and the sex is not worth it". Later that same day, February 23, 2020, MCGRAIN stated to MV, "I want to feel you...I want to feel your naked body and fuck you so hard, then throw you down and lick you....", soon followed by, "I want to fuck u". On February 25, 2020, MCGRAIN stated to MV, "Just sucks cause it's wrong but feels so good and safe with you...your right it's wrong and it will end...thank you for that magic for the past year".

6. On April 6, 2020, MV disclosed during a forensic child interview that she and MCGRAIN had been having vaginal sexual intercourse and oral sex almost daily since approximately October 2018, when she was fourteen years old, until March 26, 2020. MV disclosed she had sent MCGRAIN numerous naked photographs of herself to MCGRAIN's cell phone via text message and Snapchat. MV stated that MCGRAIN had, on the night of April 5, 2020, bypassed all the cell phone blocks on MV's phone and used an application called "Text Now", to call and text MV. Greece Police were able to observe what is believed to be those "Text Now" chat messages on MV's cell phone. In those messages, MCGRAIN

stated to MV, "I'm a wreck", "I already lost all. i told you death is my way out", "If you really want it to end then tell them you set it all up and lied...I lost all and I'm just ready to die now".

7. In the State of New York, it is a crime for which a person can be charged, for an adult to have sexual intercourse with a sixteen year old.

8. Facebook is a social media application used throughout the world on the internet, making it a means of interstate and foreign commerce.

Based upon the forgoing, your affiant respectfully submits that there is probable cause to believe that JOSEPH MCGRain did knowingly persuade, induce, or entice an individual who had not attained the age of 18 years, using a means of interstate or foreign commerce, to engage in sexual activity for which any person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2422(b).



BARRY W. COUCH
Special Agent
Federal Bureau of Investigation

Subscribed to and sworn before me
this 10th day of April 2020



HON. MARK W. PEDERSEN
United States Magistrate